

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 2000-488-C - ORDER NO. 2001-543

JUNE 6, 2001

IN RE: Application of Universal Telecommunications, Inc. for a Certificate of Public Convenience and Necessity to Provide Intrastate Resold Telecommunications Services) ORDER) GRANTING) CERTIFICATE FOR) LONG DISTANCE) AUTHORITY
---	--

This matter comes before the Public Service Commission of South Carolina (the "Commission") by way of the Application of Universal Telecommunications, Inc. ("UTI" or the "Company") requesting a Certificate of Public Convenience and Necessity authorizing it to provide intrastate resold interexchange telecommunications services between and among locations within the State of South Carolina. The Company's Application was filed pursuant to S.C. Code Ann. § 58-9-280 (Supp. 2000), and the rules and regulations of the Public Service Commission of South Carolina.

The Commission's Executive Director instructed UTI to publish, one time, a prepared Notice of Filing in newspapers of general circulation in the affected areas. The purpose of the Notice of Filing was to inform interested parties of UTI's Application and of the manner and time in which to file the appropriate pleadings for participation in the proceeding. The Company complied with this instruction and provided the Commission with proof of publication of the Notice of Filing.

A hearing was convened on May 16, 2001, at 11:30 a.m. in the Commission's Hearing Room at 101 Executive Center Drive, Columbia, South Carolina. The Honorable William Saunders, Chairman, presided. John J. Pringle, Jr., Esquire, represented UTI. Adrian Ferguson testified on behalf of the Company. Jocelyn G. Boyd, Staff Counsel, represented the Commission Staff. Eddie Coates, Rates Analyst, and Vivian B. Dowdy, Auditor, presented testimony on behalf of the Commission Staff.

Ferguson is the President of UTI. Prior to joining UTI Ferguson was a real estate agent with Bob Wood Realty, and he was an active member of the United States Navy for six years. UTI seeks to provide resold interexchange telecommunications services (1+ long distance) in South Carolina. The Company has three rate plans at present. First, the Company has a plan available for twelve cents per minute, no monthly fee. Next, the Company offers a plan for nine cents per minute with a four dollar and ninety-five cents monthly fee. Third, UTI offers a six cents per minute plan with a six dollars and ninety-five cents monthly fee. At the present time UTI does not plan to offer operator services or prepaid debit calling cards. According to the testimony, if UTI seeks to provide operator-assisted services or prepaid calling cards, it will abide by the Commission's rules and regulations regarding these services. Ferguson testified as to the Company's financial, technical, and managerial abilities to provide telecommunications services in South Carolina.

UTI intends to market its services solely to residential customers. At the present time, UTI does not market its services via the Internet. The Company is to market its services through direct mail campaigns. UTI does not employ agents to market its

services nor does the Company use telemarketing. Additionally, to ensure that a prospective customer intends to utilize UTI's services, new customers sign a written letter of authorization from the Company and UTI's sales representatives call the customer's number directly to verify the customer's intention to switch telecommunications carriers.

Moreover, UTI utilizes USBI for billing services. The bill that USBI creates for the Company includes UTI's company name. Additionally, the bill contains USBI's customer service number. The testimony reveals that UTI will provide the Commission with a copy of its bill form. Customers can contact UTI through the Company's welcoming letters and through USBI's representatives who will relay UTI's customer service number to its customers. UTI has two persons employed in its customer service department. These two employees are employed full-time. Customer service is available twenty-four hours a day.

MCI WorldCom is the Company's underlying carrier. Ferguson testified that UTI will only utilize underlying carriers who are certified by the Commission. In the event technical problems arise with respect to UTI's services, the Company contacts its underlying carrier and opens a trouble ticket. Then, the underlying carrier usually responds to the trouble ticket within an hour—the Company is in close contact with its underlying carrier.

Regarding the states where UTI has received authorization to provide telecommunications services, Ferguson testified that UTI has received certification in twenty states. The Company is providing its telecommunications services in

approximately seven states. Moreover, as of the hearing the Company had thirteen thousand customers.

UTI is a family business and Ruth Peterson (Adrian Ferguson's mother) started the Company. UTI was started in 1997 and the Company has experienced growth since its inception. The Company currently has fifteen employees. According to Ferguson, UTI has the wherewithal to pay its debts as they become due. If the Company needed to raise additional capital, Ferguson testified that UTI has a line of credit and personal financing from the owner of the Company.

The Company has over three years of experience in providing telecommunications services in several states throughout the United States. UTI's headquarters are in Georgia. Ferguson requests that the Commission allow the Company to keep its books and records in Georgia instead of South Carolina. If the Commission or its Staff requests to view the Company's books and records, Ferguson testified UTI will provide its books and records on an expedited basis. UTI's books of accounts are kept in accordance with Generally Accepted Accounting Principles.

The testimony reveals that UTI's certification has never been denied or revoked. The Company has been the subject of one investigation concerning its telecommunications services. The investigation occurred in the State of Michigan concerning a complaint for slamming. According to Ferguson, this complaint has been resolved. The complaint arose due to previous telemarketing of the Company. UTI, in response to the complaint in Michigan, has terminated the use of telemarketers in its

business. There have not been any other official complaints before or after the complaint in Michigan.

Ferguson testified that the Company has reviewed the testimony of Commission Staff witness Eddie Coates. The Company has also reviewed the proposed changes to UTI's tariff as recommended by Coates. UTI agrees to make all changes recommended by Coates so that its tariff complies with the Commission's rules and regulations.

Coates testified that he reviewed the proposed tariff submitted by UTI. The purpose of Coates' review of the tariff was to ensure that the tariff complied with the Commission's rules, regulations, policies and orders. Coates' recommendations regarding the tariff address issues such as promotional campaigns and language changes.

Dowdy reviewed financial statements and balance sheets of UTI dated December 31, 1999, April 30, 2000, and December 31, 2000. The Company's balance sheet indicates cash made up 77% of total assets as of April 30, 2000, and 68% of total assets as of December 31, 1999. Additionally, cash made up 64% of total assets as of December 31, 2000, and the Company's current ratio for this period was 1.18. Dowdy opined that UTI's financial statements indicate that the Company is liquid and the retained earnings are positive.

After full consideration of the applicable law, the Company's application, and the evidence presented at the hearing, the Commission hereby issues its findings of fact and conclusions of law:

FINDINGS OF FACT

1. UTI is organized as a corporation under the laws of the State of Delaware and is authorized to do business as a foreign corporation in the State of South Carolina by the Secretary of State.

2. UTI operates as a reseller of interexchange services and wishes to provide its services in South Carolina.

3. UTI has the experience, capability, and financial resources to provide the services as described in its Application.

CONCLUSIONS OF LAW

1. Based on the above findings of fact, the Commission determines that a Certificate of Public Convenience and Necessity should be granted to UTI to provide intrastate interLATA service and to originate and terminate toll traffic within the same LATA, as set forth herein, through the resale of intrastate Wide Area Telecommunications Services (WATS), Message Telecommunications Service (MTS), Foreign Exchange Service, Private Line Service, or any other services authorized for resale by tariffs of carriers approved by the Commission.

2. The Commission adopts a rate design to be used by UTI for its resale of interexchange services which includes only maximum rate levels for each tariff charge. A rate structure incorporating maximum rate levels with the flexibility for adjustment below the maximum rate levels has been previously adopted by the Commission. In Re: Application of GTE Sprint Communications Corporation, etc., Order No. 84-622, issued in Docket No. 84-10-C (August 2, 1984).

3. UTI shall not adjust its interexchange rates below the approved maximum level without notice to the Commission and to the public. UTI shall file its proposed rate changes, publish its notice of such changes, and file affidavits of publication with the Commission two weeks prior to the effective date of the changes. However, the public notice requirement is waived, and therefore not required, for reductions below the maximum cap in instances which do not affect the general body of subscribers or do not constitute a general rate reduction. In Re: Application of GTE Sprint Communications, etc., Order No. 93-638, issued in Docket No. 84-10-C (July 16, 1993). Any proposed increase in the maximum rate level for interexchange services reflected in the tariff, which would be applicable to the general body of the Company's subscribers, shall constitute a general ratemaking proceeding and will be treated in accordance with the notice and hearing provision of S.C. Code Ann. §58-9-540 (Supp. 2000).

4. If it has not already done so by the date of issuance of this Order, UTI shall file its revised tariff and an accompanying price list within thirty (30) days of receipt of this Order. The revised tariff shall be consistent with the findings of this Order and shall be consistent with the Commission's Rules and Regulations.

5. UTI is subject to access charges pursuant to Commission Order No. 86-584, in which the Commission determined that for access purposes resellers and facilities-based interexchange carriers should be treated similarly.

6. With regard to the Company's resale of service, an end-user should be able to access another interexchange carrier or operator service provider if the end-user so desires.

7. UTI shall resell the services of only those interexchange carriers or LECs authorized to do business in South Carolina by this Commission. If UTI changes underlying carriers, it shall notify the Commission in writing.

8. UTI shall file surveillance reports on a calendar or fiscal year basis with the Commission as required by Order No. 88-178 in Docket No. 87-483-C. The proper form for these reports can be found at the Commission's web site at www.psc.state.sc.us/forms. The title of this form is "Annual Information on South Carolina Operations For Interexchange Companies and AOS". Be advised that the Commission's annual report for telecommunication companies requires the filing of intrastate revenues and intrastate expenses.

9. The Company shall, in compliance with Commission regulations, designate and maintain an authorized utility representative who is prepared to discuss, on a regulatory level, customer relations (complaint) matters, engineering operations, tests and repairs. In addition, the Company shall provide to the Commission in writing the name of the authorized representative to be contacted in connection with general management duties as well as emergencies which occur during non-office hours. UTI shall file the names, addresses and telephone numbers of these representatives with the Commission within thirty (30) days of receipt of this Order. The "Authorized Utility Representative Information" form can be found at the Commission's web site at www.psc.state.sc.us/forms; this Form shall be utilized for the provision of this information to the Commission. Further, the Company shall promptly notify the Commission in writing if the representatives are replaced. UTI shall also file with the

Commission a copy of its general Bill Form as required by 26 S.C. Code Ann. Regs. 103-612.2 and 103-622 (1976 and Supp. 2000).

10. With regard to the origination and termination of toll calls within the same LATA, UTI shall comply with the terms of Order No. 93-462, Order Approving Stipulation and Agreement, in Docket Nos. 92-182-C, 92-183-C, and 92-200-C (June 3, 1993), with the exception of the 10-XXX intraLATA dialing requirement, which has been rendered obsolete by the toll dial parity rules established by the Federal Communications Commission, pursuant to the Telecommunications Act of 1996 (See, 47 CFR 51.209).

11. UTI seeks a waiver of 26 S.C. Code Ann. Regs. 103-610 so that the Company can keep all of its records required by the Commission's rules and regulations within the State of Georgia. More specifically, the Company request permission to keep its books and records required by the Commission's rules and regulations at its corporate offices in Atlanta, Georgia. Additionally, UTI will have a registered agent in South Carolina and will bear any costs associated with the Commission's inspection of its books and records. UTI also requests permission to maintain its financial books and records in accordance with Generally Accepted Accounting Principles (GAAP). The Company is granted a waiver of 26 S.C. Code Ann. Regs. 103-610 and UTI is allowed to keep its books and records required by the Commission's rules at its corporate offices in Atlanta, Georgia. UTI is also granted permission to utilize GAAP to maintain its financial books and records. The Company is directed to comply with all Rules and

Regulations of the Commission, unless a regulation is specifically waived by the Commission.

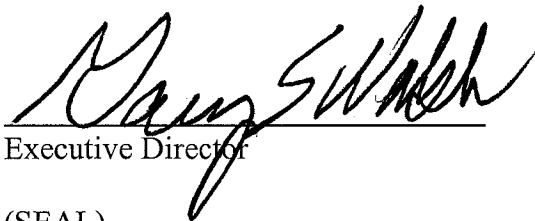
12. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:



Chairman

ATTEST:


Executive Director

(SEAL)